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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2047

DENNIS A. VERNON
1401 Ocean Avenue, Apt. #1
Seal Beach, CA 90740

A C C U S A T I O N

Respiratory Care Practitioner
License No. 23924

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.
2. On or about October 14, 2004, the Respiratory Care Board issued Respiratory Care Practitioner License No. 23924 to DENNIS A. VERNON (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2007, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“... ”

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“... ”

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).

“... ”

7. California Code of Regulations (“CCR”), title 16, section 1399.370, states:

“For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a respiratory care practitioner, if it evidences present or

1 potential unfitness of a licensee to perform the functions authorized by his or her
2 license or in a manner inconsistent with the public health, safety, or welfare. Such
3 crimes or acts shall include but not be limited to those involving the following:

4 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
5 abetting the violation of or conspiring to violate any provision or term of the Act.

6 “. . .

7 “(c) Conviction of a crime involving driving under the influence or
8 reckless driving while under the influence.”

9 COST RECOVERY

10 8. Section 3753.5, subdivision (a) of the Code states, in pertinent part:

11 "In any order issued in resolution of a disciplinary proceeding before the board,
12 the board or the administrative law judge may direct any practitioner or applicant found to have
13 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
14 investigation and prosecution of the case. . . ."

15 9. Section 3753.7 of the Code states:

16 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
17 include attorney general or other prosecuting attorney fees, expert witness fees, and other
18 administrative, filing, and service fees."

19 10. Section 3753.1 of the Code states, in pertinent part:

20 "(a) An administrative disciplinary decision imposing terms of probation may
21 include, among other things, a requirement that the licensee-probationer pay the monetary costs
22 associated with monitoring the probation."

23 CAUSE FOR DISCIPLINE

24 (Conviction of a Crime)

25 11. Respondent is subject to disciplinary action under Code sections 3750(d)
26 and 3750(g) in that he was convicted of a crime substantially related to the qualifications,
27 functions or duties of a respiratory care practitioner. The circumstances are as follows:

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1 A. On or about February 26, 2006, Respondent was stopped by
2 the California Highway Patrol for speeding. Upon contact with Respondent, the
3 officer smelled an alcoholic beverage emitting from the vehicle. Respondent
4 admitted to the officer to drinking alcohol. Respondent performed the field
5 sobriety tests poorly. Respondent was subsequently arrested for driving under the
6 influence of an alcoholic beverage. Respondent submitted to the breath test with
7 BAC results of .09%.

8 B. On or about April 7, 2006, a criminal complaint was filed
9 in Superior Court of California, County of San Diego, entitled *The People of the*
10 *State of California v. Dennis A. Vernon a.k.a.: Dennis Anthony Vernon*, Case No.
11 M-986918, charging Respondent with Count 1 - violating Vehicle Code section
12 23152(a) [driving under the influence of an alcoholic beverage], Count 2 -
13 violating Vehicle Code section 23152(b) [driving while having 0.08 percent or
14 more, by weight, of alcohol his or her blood. On or about July 11, 2006, the
15 Complaint was amended to add Count 3 - violating Vehicle Code section 23103.5
16 [reckless driving - DUI reduction].

17 C. On or about July 11, 2006, Respondent pled guilty and was
18 convicted of violating Vehicle Code section 23103.5 and the remaining counts
19 were dismissed. Respondent was granted summary probation for the period of
20 three years with terms and conditions of probation.

21 DISCIPLINE CONSIDERATIONS

22 12. To determine the degree of discipline, if any, to be imposed on
23 Respondent, Complainant alleges that on or about October 14, 2004, in a prior disciplinary action
24 before the Respiratory Care Board of California, entitled In the Matter of the Statement of Issues
25 Against Dennis A. Vernon, herein Case No. S-341, Respondent's license was publically
26 reprimanded in that on or about February 17, 2004, he was convicted of driving while under the
27 influence of alcohol. That decision is now final and is incorporated by reference as if fully set
28 forth and attached as Exhibit A.

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

4 1. Revoking or suspending Respiratory Care Practitioner License No. 23924,
5 issued to DENNIS A. VERNON;

6 2. Ordering Dennis A. Vernon to pay the Respiratory Care Board the costs of
7 the investigation and enforcement of this case, and if placed on probation, the costs of probation
8 monitoring;

9 3. Taking such other and further action as deemed necessary and proper.

10
11 DATED: December 12, 2006

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14 Original signed by Liane Zimmerman for:
15 STEPHANIE NUNEZ
16 Executive Officer
17 Respiratory Care Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant

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